

FILED

APR 8 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINALARRY W. PROPP, CLERK
COLUMBIA, S.C.**COMPLAINT**Paul K. Valdez
Enter the full name of the plaintiff in this action

v.

Captain Cliff McElvoqueSheriff Wayne DeWittSargent Tony RileyDoctor Marcus ShaeferNurse Paula Brodie
Enter above the full name of defendant(s) in this action

Civil Action No.

8:03-1118-DBT
(to be assigned by Clerk)**I. PREVIOUS LAWSUITS**A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonment? Yes _____ No X

B. If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to this previous lawsuit:

Plaintiff: _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state, name the county)

3. Docket Number: _____

4. Name of Judge to whom case was assigned: _____

5. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

II. - PLACE OF PRESENT CONFINEMENT

- A. Name of Prison/Jail/Institution: Berkeley County Detention Center
- B. What are the issues that you are attempting to litigate in the above-captioned case?
Medical neglect, improper segregated confinement, Prejudice
- C. (1) Is there a prisoner grievance procedure in this institution? Yes X No
- (2) Did you file a grievance concerning the claims you are raising in this matter? Yes X No
- When Different times Grievance Number (if available) N/A
- D. Have you received a final agency/departamental/institutional answer or determination concerning this matter (i.e., your grievance)? Yes No
- E. When was the final agency/departamental/institutional answer or determination received by you?
- If possible, please attach a copy of your grievance and a copy of the highest level decision concerning your grievance that you have received.*
- F. If there is no prison grievance procedure in this institution, did you complain to prison, jail, or institutional authorities? Yes No
- G. If your answer is YES:
1. What steps did you take?
 2. What was the result?

III. PARTIES

In Item A below, place your name, inmate number, and address in the space provided. Do the same for additional plaintiffs, if any.

- A. Name of Plaintiff: Paul K. Valdez Inmate No.:
- Address: 300 California Avenue Moncks Corner, SC 29461

In Item B below, place the full name of the defendant, his official position, and place of employment in the space provided. Use Item C for additional defendants, if any.

- B. Name of Defendant: Wayne DeWitt Position: Sheriff
- Place of Employment: Berkeley County Sheriff's Office
- C. Additional Defendants (provide the same information for each defendant as listed in Item B above):
- | | |
|--------------------------------|---|
| <u>Captain Cliff McElvogue</u> | <u>Berkeley County Detention Center</u> |
| <u>Sgt. Tony Riley</u> | <u>Berkeley County Detention Center</u> |
| <u>Dr. Marcus Shaefer</u> | <u>Berkeley County Detention Center</u> |
| <u>Nurse Paula Brodie</u> | <u>Berkeley County Detention Center</u> |

STATEMENT OF CLAIM

I have been denied psychiatric care upon my incarceration in September of 2001 at Berkeley County Detention Center 300 California Avenue Moncks Corner, SC 29461. Prior to this time I was under the care of a clinical psychiatrist. Part of the treatment I was receiving included prescribed medication. This medication was withheld by the Berkeley County Detention Center upon my incarceration. I soon started experiencing symptoms of Klonopin withdrawal psychosis. I was hearing voices, having visual hallucinations became delusional and psychotic. I continued to have these symptoms for approximately two (2) months. I agreed to be put on protective custody for a period of seventy two (72) hours. A Sgt. Tony Riley of BCDC had me sign a form stating this. Due to me experiencing these symptoms while in protective custody, I requested to be interviewed by the BCDC nurse, Paula Brodie. Upon hearing about my symptoms, nurse Brodie then arranged for me to be seen by the BCDC doctor, Marcus Shaefer. Upon seeing Dr. Shaefer I explained to him of my clinical diagnosis condition and my current symptoms. I then informed him of the medication I was prescribed by my psychiatrist, and which doctors and institutions had my medical records. I then signed release forms so that Dr. Shaefer could obtain these medical records. Dr. Shaefer then told me that what I was experiencing was normal for my adjusting to my new confinement, and denied me my prescribed medication except my anti-depressant. While I was still present, nurse Brodie commented to Dr. Shaefer that I was a drug abuser, and that I had killed my mother. She then stated that this was the reason for my claiming to suffer from mental illness. This was a very harsh and untrue statement, due to the facts that my medical records document a twelve (12) year mental illness history and that I am considered to be disabled by this illness by the South Carolina Department of Vocational Rehabilitation and the Social Security Administration. I was returned to BCDC A-pod lock down under protective custody continuing to suffer the above mentioned symptoms. I occasionally had cell mates that if contacted can confirm my condition at that time. On one occasion I had two (2) cell mates, one whose name was Peter Prilesu, and the other I only knew as "Q". These two (2) inmates severely beat me causing injury to me of two (2) fractured ribs and a concussion. When two (2) correctional officers, a corporal Arnet and private Dumas finally responded to my cries for help, corporal Arnet decided that if I was still lying on the floor of cell A-9 when he returned for the 1:30 AM count, he would then remove me from that cell and place me in another one. As a result of me remaining in cell A-9 the same two (2) inmates continued to beat me by stomping on me and beating on my head with their shoes. Later I was removed from cell A-9 and placed in cell A-4. I remained in cell A-4 while I recuperated from the injuries I received from the beating of the two (2) inmates while in cell A-9. The only treatment I received from Dr. Shaefer during my recovery was when he was brought to cell A-4 to examine me. Due to my concussion, I can only remember Dr. Shaefer holding open my eyelids and shining a flashlight in my eyes. I finally recovered in mid November 2001.

At this time I seemed to no longer be suffering from the previous hallucinations. At this point in time Sgt. Riley had me returned to B-pod general population. I then sent a request to Dr. Shaefer, nurse Brodie, and Sgt. Riley asking what forms of medical treatment or care I received during the two (2) weeks after the assault upon me by the two (2) inmates. I also inquired as to what if any charges would be filed against these two (2) inmates who had lynched me. I received no reply from anyone in BCDC administration. I feel this was due to the neglect of medical treatment and my psychotic symptoms. Three (3) BCDC correctional officers, a Pvt. Sheetz, Pvt. Vaughn, and Mrs. Collins mentioned the attack upon me and I "crazy" I had seemed to be during those two (2) months in A-pod protective custody.

I believe the fore mentioned and the following events describe some violations of my rights or laws concerning the care and treatment of inmates. Exactly which laws, policies or procedures have been violated, I am not sure. Therefore I ask the court to decide. As of the date of this complaint I have continued to be denied psychiatric care and necessary medical tests to regulate my thyroid condition by this facility.

During my next ten (10) month stay in B-pod general population, I experienced regular periods of insomnia along with audio hallucinations which seemed to occur in direct relation to my sleep deprivation. On several occasions I related this to nurse Brodie, who stated to me that I was in jail and not the Holiday Inn and refused to refer me to see some one from Mental Health, which I also requested. Also during my stay in B-pod general population, another inmate who was also charged with capital murder was receiving medication for his mental condition. The name of this medication was Resperdol. I then became concerned if this medication would help my present symptoms. Due to stress and poor judgement I traded canteen items with Mr. Audie Brabham for his medication. Both of us were caught in this transaction and sent to A-pod for disciplinary punishment. This was my first such offense and Mr. Brabham's second. Mr. Brabham remained in A-pod lock down for two (2) weeks and I remained for thirty six (36) days. I was then returned to B-pod general population. I was then returned to A-pod lock down five (5) days later no explanation. I inquired as to the reason of my being locked down again and how long I would have to remain. Approximately two (2) weeks later Sgt. Riley came to see me in A-pod lock down and informed me that I would remain in lock down indefinitely due to my violation concerning Mr. Brabham's medication. I then sent requests to Sgt. Riley requesting a better explanation of the reason of my lock down in A-pod. I stated that this type of confinement was violating my right to due process. Sgt. Riley then stated to me that I was on lock down in A-pod by order of nurse Brodie to make sure that I was taking my medication and not for any disciplinary reason. This aroused my suspicion because approximately two (2) weeks prior I had a meeting with a Cpt. Cliff McElvogue. This meeting concerned a telephone call he received from my father's attorney requesting psychiatric care for me. Cpt. McElvogue stated to me that if I continued to pursue this intervention from the

attorney on my behalf that he would put me in A-pod lock down and throw away the key. As far as I am concerned, this is exactly what happened but supposedly by the order of nurse Brodie who seems to have much contempt towards me. Due to the afore mentioned reasons, I decided to pursue a legal resolution for my complaints. I was soon to realize that being on lock down severely restricted my access to writing materials such as pens, pencils, legal pads, and stamped envelopes. These are all considered contraband while on lock down in A-pod. I proceeded to ask my father to send me legal books that a lawyer stated I had the right to have. These books would aid and assist in the preparation of my defense. I received a book called with a soft cover named Black's Law Dictionary which was quickly confiscated by Sgt. Riley as contraband. I then asked if I could have access to a law library, but again I was denied. My incoming legal mail is being opened and read by the staff before I receive it. My outgoing legal mail has also been opened and read and then resealed prior to mailing. I believe that the administration here at BCDC is intentionally trying to block my access to the court and hinder my efforts to obtain information that would help me prepare and defend myself in court. I believe these are violations of my Constitutional rights. I further feel that I am being discriminated against by Dr. Shaefer, nurse Brodie, and the administration of BCDC due to the nature of my charges and the identity of my alleged victim. My being overweight, gender, and mental condition. To support this claim, I list the following Facts: Cpt. McElvogue called me a fat sweat hog and would take my mattress, clothes, blanket, toilet paper, Bible, (the only book they allow here) and turn the water off on my toilet if I make anymore complaints. This also was witnessed by my then cell mate, a Robert Lee. The staff at BCDC often take away these items it seems to inflict a more severe punishment then just being put on lock down. I believe this is a violation of the standard at which inmates should be kept. Again, Audie Brabham was returned to A-pod lock down for his third (3rd) offense of selling or trading his medication. He was then returned to B-pod general population after three (3) weeks. Evidently being locked down in A-pod at BCDC is not a punishment that is required equally to all inmates with the same violation, even when repeated three (3) times. This is blatantly unfair and improper.

The female pre-trial detainees here at BCDC receive the same privileges as the trustees. The male pre-trial detainees do not. This I believe is discrimination based on gender. If it is indeed true that I was being kept in A-pod lock down for medical and not disciplinary reasons, then I should of received the same privileges as all the other general population pre-trial detainees regardless of gender also.

I request the court to order the Berkeley County Sheriff and the administration at Berkeley County Detention Center to:

- 1.) Return me to B-pod general population.
- 2.) Provide me with the same privileges of all other pre-trial detainees regardless of gender.
- 3.) Provide me with proper psychiatric care and medical tests and treatment necessary to regulate my thyroid condition.

- 4.) Allow me to possess writing materials to include black ink pens needed by me to prepare documents for submission to the courts for my defense.
- 5.) Allow me to receive legal books such as Black's Law Dictionary and the Prisoners Litigation Handbook.
- 6.) Access to a law library.
- 7.) To discontinue the practice of "striping out" an inmates cell of his mattress, blanket, clothes, and Bible.
- 8.) No longer shut off the cell's water so an inmate can not flush his toilet.
- 9.) No longer withhold the necessary showering for proper hygiene as a disciplinary tool.
- 10.) Provide reimbursement of any medical expenses for psychiatric care by a private psychiatrist at the BCDC to include the cost of prescribed medications while I am in the custody of the Berkeley County Detention Center.
- 11.) To pay lawyer fees and all fees in preparing these documents and all other costs in bringing this court action.
- 12.) Monetary damages in equivalent to one hundred and fifty dollars (\$150.00) a day for every day since my arrest that I had to endure needless pain and suffering from psychotic symptoms due to medical neglect and refusal to provide psychiatric care by the staff at Berkeley County Detention Center.
- 13.) Monetary damage equivalent to one hundred and fifty dollars (\$150.00) a day for every day that I have been confined in segregation with no privileges without valid disciplinary or medical cause..

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Signed this 7th day of April 2003

Paul K. Valdez

Signature of plaintiff